

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. : 10/092,072  
Applicants : Wayne H. Rothschild  
Filed : March 6, 2002  
Title : Integration of Casino Gaming and Non-Casino Interactive Gaming  
TC/A.U. : 3714  
Examiner : Matthew D. Hoel  
Docket No. : 247079-000125USPT  
Customer No. : 70243

Mail Stop Appeal Brief –via EFS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37**

Dear Commissioner:

This Appeal Brief is filed pursuant to the Appellants' appeal to the Board of Patent Appeals and Interferences ("Board") from the final rejection of claims 1-3, 6-15, 19, 21-35, 39-46, 48-51, 62-64 and 66-86 in the April 21, 2009 Final Office Action. A Notice of Appeal was filed on July 20, 2009. The due date for this Appeal Brief is September 20, 2009, which is two months from the mailing date of the Notice of Appeal and this Appeal Brief is being filed within one month after this due date. The fee for a One-Month Extension of Time is submitted concurrently herewith.

**I. REAL PARTY IN INTEREST**

The real party in interest is WMS Gaming Inc., having a place of business at 800 South Northpoint Boulevard, Waukegan, Illinois 60085.

**II. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board of Patent Appeals and Interferences in the present appeal.

**III. STATUS OF CLAIMS**

Claims 1-3, 6-15, 19, 21-35, 039-46, 48-51, 62-64 and 66-86 are currently pending and rejected in the above-referenced application and are the subject of the present appeal. No claims have been allowed.

**IV. STATUS OF AMENDMENTS**

The claims are as currently listed in a June 24, 2009, Amendment and Response to Final Office Action and set forth in the attached Appendix of Claims on Appeal. No amendments are pending.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

Pursuant to 37 C.F.R. § 41.37 (c)(1)(v), exemplary references to the specification by page and line number and to the drawings and reference characters are included in the below summary of the independent claims. Such references are by way of example only and are not to be construed in a limiting manner. Reference will be made herein to paragraph numbers appearing

in Appellant's U.S. Patent Application Publication No. 2003/0171149 corresponding to the present pending application.

Appellant's application was filed on March 6, 2002. In aspects of Appellant's disclosure, set forth in independent claims 1, 10, and 31, systems and methods of integrating casino gaming with non-casino interactive gaming at a central server system are provided. FIG. 1 illustrates an exemplary web-based system for integrating casino gaming with non-casino interactive gaming. The web-based system includes a central server system 10, comprising servers 10a, 10b, 10c in the example of FIG. 1 (§ [0026]).

A plurality of wagering games are offered on the central server system 10 (§ [0026]), and each wagering game includes audiovisual content and game software for generating a random event (§ [0028]). The audiovisual content includes computer-generated image and animation data representing the random event (§ [0028]).

A communications link is established between the central server system 10 and a player-operated gaming machine 12 in a land-based casino (§ [0035]). A first wagering game is conducted via the player-operated gaming machine 12, and the audiovisual content for the first wagering game is presented at the gaming machine 12 (§ [0029]). In independent claim 66, a random event for the first wagering game is generated at the first gaming machine (§ [0029]).

A communications link is established, via a reconfigurable computer network, between the central server system 10 and a player-operated computing device 14 remote from any land-based casino (§§ [0026, 0037]). The computing device 14 is authorized to access the first or a second wagering game offered on the central server system 10 (§§ [0026, 0037-38]). In other words, the computing device 14 can access the same wagering game that is conducted at the gaming machine 12 or a different wagering game offered on the central server system 10. The

second wagering game is conducted via the player-operated computing device 14 by generating a random event for the second wagering game at the central server system 10 (§ [0030]). The audiovisual content for the second wagering game is presented at the computing device 14 (§ [0030]). An award for a winning outcome of the random event for the first wagering game conducted via the gaming machine 12 is provided at the gaming machine 12 (§ [0028]).

The invention set forth in the independent claims provides a flexible way of offering wagering games on a central server system at both gaming machines in a land-based casino and computing devices remote from any land-based casino via a reconfigurable network that can present different components (audiovisual content or game software) of the wagering games at the central server system, the gaming machine, the computing device, or combinations thereof.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 1-3, 8-15, 22-26, 31-35, 40-46, 51, 62-64, 66-69, 72-73, 75-81, 84, and 86 are unpatentable under 35 U.S.C. 103(a) over WO 01/91866<sup>1</sup> (Harkham) in view of U.S. Patent No. 6,508,709 (Karmarkar).

2. Whether claims 6-7, 19, 21, 27-30, 39, 48-50, 70-71, 74, 79, 82-83, and 85 are unpatentable under 35 U.S.C. 103(a) over WO 01/91866 (Harkham) in view of U.S. Patent No. 6,508,709 (Karmarkar) and further in view of U.S. Patent Application Publication No. 2002/0087876 (Larose).

## **VII. ARGUMENT**

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<sup>1</sup> The U.S. counterpart to Harkham is U.S. Patent Application Publication No. 2002/0094869.

**1. 35 U.S.C. § 103 REJECTION OF CLAIMS 1-3, 8-15, 22-26, 31-35, 40-46, 51, 62-64, 66-69, 72-73, 75-81, 84, AND 86 OVER WO 01/91866 (HARKHAM) IN VIEW OF U.S. PATENT NO. 6,508,709 (KARMAKAR) IS IMPROPER**

Regarding the **independent claims 1, 10, 31, and 66**, there are two main sticking points between the Examiner and Appellants. First, Appellant contends that the simulation computer that simulates a virtual slot machine in Harkham does not correspond to the claimed central server system, because the simulation computer does not possess all of the characteristics of the claimed central server system. For example, the simulation computer does not offer a wagering game that is presented at a gaming machine. Second, Appellant disagrees with the Examiner's assertion that the pre-recorded live video in Karmarkar corresponds to the claimed "computer-generated image and animation data representing the random event" of a wagering game offered on a central server system. Each of these contentions will be addressed below along with other distinctions between the claims and the applied prior art.

As an initial matter, Appellant respectfully disagrees with the "real issue, as the Examiner sees it" as being "a lack of an interaction or nexus between the conducting of the first wagering games via the player-operated gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the gaming machine, and the conducting of the second of the wagering games via the player-operated computing device by generating a random event for the second of the wagering games at the central server system" as set forth in the Examiner's Advisory Action mailed July 8, 2009. In fact, it is precisely the point that the two wagering games do not need to interact with one another at all. A first wagering game can be conducted at the gaming machine, while a second wagering game can be conducted at a computing device, and both wagering games are offered on the same central server system. There does not need to

be any interaction between the two wagering games, and in fact, they can be entirely distinct from one another. The issue is not whether the two wagering games interact, but that the two wagering games are both offered on a central server system and can be conducted at different devices—a gaming machine in a land-based casino and a computing device remote from any land-based casino.

A. **Harkham's simulation computer that simulates a virtual slot machine does not correspond to the claimed central server system**

In the Advisory Action mailed July 8, 2009, the Examiner states that “Para. 63<sup>2</sup> of ‘866 [Harkham] describes how the player has the option of remotely playing slot machines according to instructions received from the remote player or the player can play a virtual slot machine, based on statistics from a slot machine server that simulates slot machines.” Appellant and the Examiner continue to disagree as to whether the “virtual slot machine” disclosed in Harkham corresponds to the claimed central server system. In a response dated January 12, 2009, Appellant pointed out in detail why Harkham’s virtual slot machine differed from the claimed invention.

Harkham relates to real-time on-line casino games (Page 1, line 6). Harkham mentions that the problem of online casinos is that the casino games are “simulated by computer,” and therefore the remote players “do not have the realistic experience of playing at a real casino with real dealers and interacting with other players.” Page 1, lines 10-11. Harkham goes on to frame the problem as “remote players cannot rely on a real dealer to deal real cards, but must rely on a

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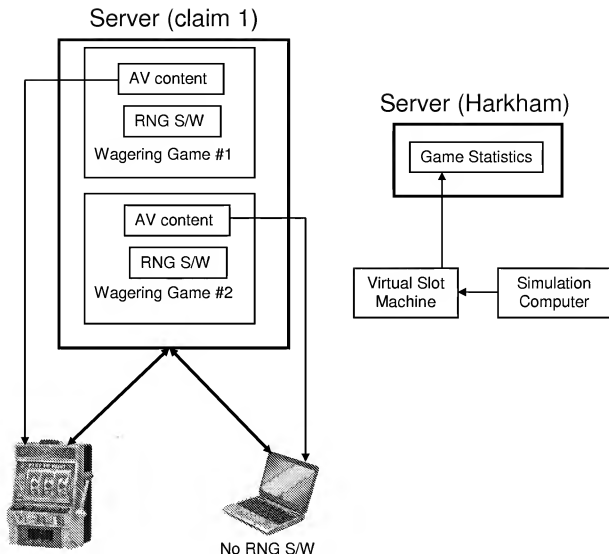
<sup>2</sup> The Examiner is apparently quoting from the U.S. counterpart to Harkham, i.e., U.S. Patent Application Publication No. 2002/0094869.

computer algorithm to generate virtual cards. Players cannot be assured that the virtual cards are generated fairly.” Page 1, lines 11-13.

Another problem tackled by Harkham is the time consumed by players observing slot machines to see which ones have larger and more frequent payouts. To address this problem, Harkham proposes to store slot machine statistics on a server. Page 1, lines 31-33 & page 2, line 34 to page 3, line 3.

1. **Harkham’s server stores *statistics*, not a plurality of wagering games, and the statistics server, which is distinct from the simulation computer, does not simulate a slot machine**

In the slot machine embodiment in Harkham, only statistics associated with the slot machines are sent by the server to the client device 102 (see FIG. 6 of Harkham and page 14, line 16 to page 16, line 24). Page 15, line 20 of Harkham mentions that a “virtual slot machine is simulated by a simulation computer,” and the Examiner deems the simulation computer to correspond to the claimed central server system. In a response mailed January 12, 2009, Appellant highlighted some of the many differences between the claimed central server system and the statistics server in Harkham, which is used to store game statistics. For convenience, some of the claim terms have been replaced with abbreviated colloquial terms. For example, “the audio visual content including computer-generated image and animation data representing the random event” is described as “A/V content,” and “game software for generating a random event” is described as “RNG S/W [software].” These substitutions are not intended to limit the scope of the claimed invention; rather, they are made merely for ease of discussion.



As pointed out in the response dated June 24, 2009, the central server system of the independent claims has the following attributes, all of which must be found in the simulation computer identified by the Examiner as corresponding to the claimed central server:

- offers a plurality of wagering games, each including A/V content and game software for generating a random event, the A/V content including computer-generated image and animation data representing the random event;
- has a communications link established between the server and a player-operated gaming machine in a land-based casino;



- has a communication link established between the server and a player-operated computing device remote from any land-based casino;
- a computing device is authorized to access wagering games offered on the server; generates a random event of a second wagering game that is conducted via a player-operated computing device; and
- generates a random event of a first wagering game that is conducted via a first gaming machine in a land-based casino (**claim 66**).

The simulation computer for simulating a virtual slot machine does not correspond to the claimed central server system, and there is nothing in the passages that the Examiner relies upon (i.e., Harkham, 14:12-13, 14:16-18, 17:22), which suggests that the simulation computer offers game software for wagering games, links to a gaming machine in a casino and a remote computing device, allows a computing device when authorized to access wagering games on the simulation computer, generates a random event of a wagering game conducted via the computing device, or generates a random event of a wagering game conducted via the gaming machine (claim 66). The Advisory Action states that Harkham “describes how the player has the option of remotely playing slot machines according to instructions received from the remote player or the player can play a virtual slot machine, based on statistics from a slot machine server that simulates slot machines.” The highlighted portion of the previous sentence is not correct. Harkham does not provide the player the option of remotely playing a virtual slot machine based on statistics from a slot machine server *that simulates slot machines*. The statistics server does not simulate the slot machines—such simulation is done by a simulation computer, which is not part of the statistics server.

Harkham clearly distinguishes between the statistics that are stored in a database of a slot machine server, and a virtual slot machine that is simulated by a simulation computer whose statistics are stored in a database. Harkham, page 15, lines 18-23. In other words, the problem Harkham is addressing here as set forth in the Background Section of Harkham is the difficulty of the players to readily perceive which slot machines (physical or virtual) are “hot” and more likely to produce larger payouts. To solve this problem, Harkham proposes to store the statistics for all of the slot machines (physical or virtual) in a statistics server to be accessed by the player. Harkham does not address the issue of offering a variety of wagering games on a central server system for presentation at a gaming machine and at a computing device. For example, Harkham’s simulation computer does not offer a wagering game that is presented at a player-operated gaming machine. Thus, the Examiner’s position that Harkham’s statistics server also simulates a virtual slot machine is demonstrably unsupported by Harkham.

Finally, as pointed out above, Harkham disparages computer-simulated wagering games like those offered by the central server system in Appellant’s claimed invention. Harkham states that one of the problems of online casinos is that the casino games are “simulated by computer,” and therefore the remote players “do not have the realistic experience of playing at a real casino with real dealers and interacting with other players.” Page 1, lines 10-11. As a result, “remote players cannot rely on a real dealer to deal real cards, but must rely on a computer algorithm to generate virtual cards. Players cannot be assured that the virtual cards are generated fairly.” Page 1, lines 11-13. This disparagement of precisely the sort of wagering game offered in the claimed invention (i.e., having audiovisual content including computer-generated image and animation data representing the random event) would discourage a person of ordinary skill in the art from taking Harkham in a direction of offering computer-simulated wagering games on a

central server system. As such, this disparagement by Harkham of computer-simulated wagering games constitutes powerful teaching away evidence that would lead a person of ordinary skill in the art away from offering computer-simulated wagering games on a central server system.

**B. Karmarkar’s computer-processed pre-recorded live video does not correspond to the claimed computer-generated image and animation data representing the random event**

The second main point of disagreement relates to whether the computer-processed pre-recorded *live* video in Karmarkar corresponds to the claimed “computer-generated image and animation data representing the random event” of a wagering game offered on a central server system. The Examiner contends in the Advisory Action that Karmarkar’s computer-processed *live-action* content (Karmarkar “conducts significant video *processing* with the acquired footage”) corresponds to the claimed “computer-generated image and *animation* data representing the random event.” As explained below, Karmarkar’s computer-processed content is generated from live-action games and not by a computer and does not correspond to “computer-generated image and *animation* data representing the random event.” The Examiner also erroneously states in the Advisory Action that Karmarkar transmits synthetic cards to represent the status of a live card game and that synthetic cards correspond to the claimed audiovisual content (citing Karmarkar, col. 13, ll. 1-30). As explained below, what Karmarkar actually transmits *to the remote player station 316* is an encrypted digital word *representing* a physical playing card whose suit has been recognized by an image processor, not a processed video image of the actual playing card itself, to reduce unnecessary bandwidth usage on the network. Instead, video images of playing cards are prestored on the remote player station.

Karmarkar offers a virtual gaming system in which remote players can play an ongoing *live* casino game being played in real time at a casino or a previously recorded *live* casino game that has been stored as pre-recorded video. *See* Abstract. Emphasized repeatedly throughout Karmarkar is that the pre-recorded video is that of a *live* casino game that has been previously recorded, such as with celebrities, as pointed out in Appellant's June 24, 2009, Response. The following excerpts clearly demonstrate that the phrase "pre-recorded video" in Karmarkar refers to previously recorded video of a live casino game:

Virtual gaming is provided at a remote location on-site or off-site of the casino premises using live multimedia video or restricted pre-recorded video **from autonomous randomly selected live casino games**. The restricted pre-recorded video could be obtained from *prior casino security video or from closed regulated tournament video recordings*.

Karmarkar, Abstract.

Virtual gaming at a remote site uses legally randomized live video or pre-recorded video. Pre-recorded video could be obtained **from prior casino security video storage tapes or from tapes of closed regulated tournaments**.

Karmarkar, Col. 2, ll. 37-43.

Regulated live play or **pre-recorded restricted access storage repository-based multimedia video, of hired casino shills or invited professional gamblers or invited celebrities at the gaming tables**, enables a licensed casino to become a provider of multimedia gaming content, certified by government gaming authorities, similar to the movie/television entertainment production industry.

Karmarkar, col. 3, ll. 14-20.

The present invention includes a legally-authorized remote gaming system which includes a multimedia video source at a casino which provides a live video or pre-recorded restricted-access video signal **depicting a legally-authorized *live* casino game**.

Karmarkar, col. 3, ll. 30-34.

The remote player station includes a display for displaying to a remote player the live multimedia video or the pre-recorded multimedia video signal depicting the legally-authorized, live or pre-recorded, ***actual* casino game**.

Karmarkar, col. 3, ll. 40-43.

The present invention also allows a remote virtual slot players to participate in the outcome of a particular lucky slot machine, which is being **played by a live slot player**.

Karmarkar, col. 9, ll. 43-46.

These legally-authorized games are then electronically acquired on multimedia video and electronically routed to the remote player stations, on-site or off-site via the distribution hub 34. Indeed, **the live players at these house tables** could be world-class card players, tournament poker players, and other professional game players.

Karmarkar, col. 10, ll. 61-67.

Moreover, the **games at the live house tables** can also be played in a closed "secure" casino-controlled environment, **recorded** and then **autonomously** randomly selected and **routed to the remote player stations**.

Karmarkar, col. 11, ll. 8-11. Thus, Karmarkar's pre-recorded video corresponds to a previously recorded video of a live casino game. The Examiner points out in the Advisory Action that the pre-recorded video undergoes significant video processing by a computer (FIG. 1B, elements 90, 92, 94, 96 & col. 6, l. 45 to col. 7, l. 8), as disclosed by Karmarkar, but *processing* by a computer of live video does not correspond to the claimed "computer-generated image and animation data representing the random event." Stated differently, the image and animation data for the wagering game is generated on a computer. This is the plain meaning of the term "computer-generated." The video data in Karmarkar is not generated on a computer, but rather by human activity, which is captured by video cameras and stored on a tape or similar video-storage media. Further processing in the form of compression and optionally encryption is performed by image processors, but that processed video data is not computer-generated.

The Examiner is not relying solely upon the pre-recorded video in Karmarkar, but contends that Karmarkar transmits synthetic cards to a remote player, but as will be pointed out below, this contention is based upon an erroneous reading of Karmarkar. In short, Karmarkar

does not transmit an image of a playing card to a remote player station, but instead transmits merely an encrypted digital word representative of the playing card's rank and suit to the remote player station. The video images of the playing cards are actually prestored on the remote player station.

In FIG. 5 of Karmarkar, a remote gaming system 300 includes cameras 304, 306, 308 trained on a live card game, and the video feed from the cameras 304, 306, 308 is received at an Internet communication server 312, which creates synthetic video images from the raw video data. Col. 13, ll. 6-8. Images of the playing cards are prestored at the remote player station 316. Col. 13, ll. 16-19. Karmarkar teaches, "rather than transmitting the image of a 'five of diamonds,' an encrypted digital word representing the 'five of diamonds' is transmitted over the regulated Internet or other gaming related virtual private network." Col. 13, ll. 19-23. In other words, the server 312 sends to the remote player station 316 an encrypted digital word representing the playing card's rank and suit, not an image of the playing card itself. Karmarkar explains that, as a result, "the video communication bandwidth required from the virtual private network or Internet is significantly reduced." Col. 13, ll. 42-44. At best, Karmarkar discloses offering "image data" of a playing card (which is prestored at the remote player station 316), but is silent as to offering "animation data" of a wagering game on a central server system and presented at a player-operated computing device. Moreover, the playing card data is not "computer-generated" as pointed out above. Accordingly, Karmarkar does not disclose offering a plurality of wagering games on a central server system, each wagering game including audiovisual content and game software for generating a random event, the audiovisual content including computer-generated image and animation data representing the random event. Likewise, Karmarkar does not disclose presenting computer-generated image and animation data

for a first wagering game offered on the central server system at a gaming machine or a second wagering game offered on the central server system at a remote computing device.

The person of ordinary skill in the art, starting with Harkham, would understand that it is advantageous to store statistics of real and virtual slot machines on a server to provide casino and remote players an indication as to the likelihood of large winnings at a particular slot machine. Nowhere does Harkham suggest that the server that stores statistics can also offer a plurality of wagering games each including computer-generated image and animation data to be presented at gaming machines in a land-based casino as well as player-operated computing devices remote from any land-based casino. Harkham's simulation computer that simulates a real slot machine does not also offer a wagering game that is presented at a gaming machine in a land-based casino, as called for by the claimed invention, and neither does Harkham's statistics server. Karmarkar does not even address the deficiencies of Harkham. At best, Karmarkar discloses that instead of transmitting actual video images of cards, encrypted digital words representing a rank and suit of a playing card can be transmitted instead (note Harkham discloses embedding each card with a code or a miniature chip, page 10, ll. 21-33). Nowhere does Karmarkar suggest that a central server system can offer a plurality of wagering games each including computer-generated image and animation data to be presented at a gaming machine in a casino and at a player-operated computing device remote from any casino.

C. **Neither Harkham nor Karmarkar discloses generating a random event for a wagering game at the central server system as claimed**

In the claimed invention, the random event for the second wagering game is generated at the central server system. This feature is lacking from both Harkham and Karmarkar. The

Examiner contends that Harkham's simulation computer generates the random event for the virtual slot machine. Appellant respectfully disagrees.

The claimed invention essentially calls for the second wagering game to be presented at a computing device, and that the wagering game includes game software for generating a random event and audiovisual content including computer-generated image and animation data representing the random event. The random event for the second wagering game presented at the remote computing device is generated at the central server system. Harkham does not disclose that the simulation computer generates the random event for the slot machine that is being simulated. Even if the random event were generated at the simulation computer, the simulation computer would not correspond to the claimed central server system as explained above. At best, Harkham is silent as to where and how the random event for the virtual slot machine is generated because Harkham's main point is that the statistics for such a virtual slot machine are stored on a statistics server. Page 15, lines 18-22. Furthermore, there is not even a suggestion in Harkham that the statistics server would generate the random event for the virtual slot machine.

Karmarkar similarly fails to disclose generating, at a central server system, a random event for a wagering game presented at a computing device as claimed. The outcome of the live or pre-recorded live card game is determined by the real play of the card game being recorded, not randomly determined at a central server system as claimed. Accordingly, the Harkham-Karmarkar combination further fails to disclose generating, at a central server system, the random event for a wagering game presented at a computing device as claimed.

D. **Harkham does not disclose conducting a first of the wagering games offered on the central server system via the player-operated gaming machine**



The Final Office Action mailed April 21, 2009, asserts that Harkham discloses conducting a first of the wagering games (offered on the central server system) via the player-operated gaming machine, citing FIG. 6 and page 14, lines 16-25 of Harkham. April 21, 2009, Final Office Action, at 3. In this passage on page 14, lines 16-25, the only data communicated between the server and the player's client device 102 or a physical slot machine is statistics. Nothing in the cited passage discloses that Harkham's statistics server offers a wagering game that includes audiovisual content and that is presented at a player-operated gaming machine. The physical slot machines are just that—there is no audiovisual content or game software offered on a server that is presented at the slot machine. Only slot machine statistics are communicated from the statistics server. Thus, Harkham does not disclose conducting a first of the wagering games [offered on the central server system] via the player-operated gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the gaming machine as set forth in **claims 1 and 10**, or causing a first of the wagering games to be conducted via a first of the gaming machines by generating a random event for the first wagering game at the first gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the first gaming machine as set forth in **claim 66**, or a controller programmed to conduct a first of the wagering games via the player-operated gaming machine, the audiovisual content for the first wagering game being presented at the gaming machine as set forth in **claim 31**.

To summarize, the Harkham-Karmarkar combination fails to set forth a *prima facie* case for obviousness because at least the following elements of the claimed invention are not disclosed in either reference [brackets include a brief summary of why this element is missing]:

1. offering a plurality of wagering games on the central server system, the plurality of wagering games each including audiovisual content and game software for generating a

random event, **the audiovisual content including computer-generated image and animation data representing the random event** (claims 1, 10 and 66) [Harkham's simulation computer does not correspond to the statistics server to which the real and virtual slot machines are connected and Harkham's statistics server does not offer wagering games as claimed; Karmarkar's Internet communication server 312 provides encrypted digital words representing a rank and suit of a playing card, but the images of the playing cards are prestored on the remote player station 316; Karmarkar's pre-recorded and computer-processed video of a live casino game does not correspond to computer-generated image and animation data];

2. a plurality of wagering games offered by the central server system, each of the plurality of wagering games including audiovisual content and game software for generating a random event, **the audiovisual content including computer-generated image and animation data representing the random event** (claim 31) [see explanation for element #1, *supra*];

3. conducting a first of the wagering games via the player-operated gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the gaming machine (claims 1 and 10) [Harkham's simulation computer, even if it were to correspond to the claimed central server system, does not offer a wagering game that is presented at a gaming machine; Karmarkar's pre-recorded video does not correspond to the claimed computer-generated image and animation data];

4. a controller programmed to conduct a first of the wagering games via the player-operated gaming machine, the audiovisual content for the first wagering game being presented at the gaming machine (claim 31) [see explanation for element #3, *supra*];

5. causing a first of the wagering games to be conducted via a first of the gaming machines by generating a random event for the first wagering game at the first gaming machine,

wherein the audiovisual content for the first of the wagering games is presented at the first gaming machine (claim 66) [see explanation for element #3, *supra*];

6. conducting the second of the wagering games via the player-operated computing device, **wherein the random event for the second of the wagering games is generated at the central server system and wherein the audiovisual content for the second of the wagering games is presented at the computing device** (claims 1, 10) [Harkham's statistics server does not generate a random event for a virtual slot machine and Harkham's simulation computer does not correspond to the claimed central server system; the outcome of Karmarkar's live card game is not randomly generated at a central server system];

7. conduct the second of the wagering games via the player-operated computing device by **generating the random event of the second wagering game at the central server system, the audiovisual content for the second wagering game being presented at the computing device** (claim 31) [see explanation for element #6 *supra*]; or

8. causing the second of the wagering games to be conducted via the player-operated computing device by **generating a random event for the second of the wagering games at the central server system; wherein the audiovisual content for the second of the wagering games is presented at the computing device** (claim 66) [see explanation for element #6 *supra*];

For at least the foregoing reasons, this Honorable Board should reverse the Examiner's final rejection of all of the claims because the Examiner has not made out a proper *prima facie* case for obviousness. Numerous elements are lacking from the Harkham-Karmarkar combination, and as such, the rejection cannot be sustained.

Although all of the dependent claims are believed to be patentable because their corresponding independent claims are patentable over the Harkham-Karmarkar combination, the following dependent claims are patentable for at least the following additional reasons.

Regarding **claim 6**, the Harkham-Karmarkar-Larose combination does not disclose downloading the audiovisual content for the second of the wagering games from the central server system to the gaming machine, and wherein the conducting the second of the wagering games includes executing the game software at the central server system, and wherein the configuring includes configuring the gaming machine to conduct the basic version of the at least one of the wagering games, wherein the at least one of the wagering games is the second of the wagering games. Harkham's virtual slot machine is not downloaded from the simulation computer (or from the statistics server) to the gaming machine, which also presents a first wagering game as claimed in claim 1. Karmarkar does not disclose executing the game software for a gaming machine at a central server system. The live card game is played at a casino, and its outcome is determined by the live play by human players. U.S. Patent Application Publication No. 2002/0087876 (Larose) does not cure these deficiencies in Harkham or Karmarkar.

Regarding **claims 7, 19, 39, and 67**, the Harkham-Karmarkar-Larose combination does not disclose downloading the audiovisual content and the game software for the first of the wagering games from the central server system to the gaming machine, wherein the conducting the first of the wagering games includes displaying the audiovisual content and executing at least a substantial portion of the game software at the gaming machine, and wherein the configuring includes configuring the gaming machine to conduct the enhanced version of the at least one of the wagering games, wherein the at least one of the wagering games is the first of the wagering games or downloading the audiovisual content and the game software for the first wagering

game from the central server system to the gaming machine, and wherein the conducting the first one of the wagering games via a player-operated gaming machine includes displaying the audiovisual content for the first wagering game and executing the game software for the first wagering game at the gaming machine or wherein the gaming machine receives the audiovisual content for the first wagering game and the game software for the first wagering game from the central server system, stores the audiovisual content for the first wagering game and the game software for the first wagering game locally, and executes the game software for the first wagering game or downloading the game software for the first wagering game from the central server system to the first gaming machine. Harkham's simulation computer does not download game software for a wagering game to a gaming machine. The outcome of Karmarkar's live card game is determined by the live play of human players. Larose does not cure these deficiencies in Harkham or Karmarkar.

Regarding **claim 21**, the Harkham-Karmarkar-Larose combination does not disclose downloading the audiovisual content for the second wagering game from the central server system to the computing device, and wherein the conducting the second of the wagering games via the player-operated computing device includes displaying the audiovisual content for the second wagering game at the computing device and executing the game software for the second wagering game at the central server system. Harkham's simulation computer does not correspond to the claimed central server system, and Harkham does not disclose downloading audiovisual content for a wagering game from the statistics server to a computing device. Karmarkar's encrypted digital word representing a card's rank and suit does not correspond to the claimed audiovisual content. Larose does not cure these deficiencies in Harkham or Karmarkar.

Regarding **claims 9, 23, 43, and 72**, the Examiner identifies the virtual slot machine in Harkham as corresponding to the player-operated gaming machine in a land-based casino, but the virtual slot machine does not correspond to a player-operated gaming machine in a land-based casino as claimed.

Regarding **claim 40**, the Harkham-Karmarkar combination does not disclose wherein the central server system executes the audiovisual content for the second wagering game and the game software for the second wagering game. Harkham's simulation computer does not correspond to the claimed central server system, and Harkham's statistics server does not execute audiovisual content and game software for a wagering game presented at a computing device.

Regarding **claim 41**, the Harkham-Karmarkar combination does not disclose wherein the central server system executes the game software for the second wagering game, and wherein the computing device receives the audiovisual content for the second wagering game from the central server system and stores the audiovisual content for the second wagering game locally. Harkham's simulation computer does not correspond to the claimed central server system, and Harkham's statistics server does not execute game software for a wagering game presented at a computing device.

Regarding **claims 30, 50, 73, 74, 79, 82, 83, and 85**, Appellant explained in detail in the response mailed May 15, 2008, why Larose fundamentally differed from the basic-enhanced content of the claimed invention. Generally, Larose is directed to an adaptive software installation process supporting multiple layers of security-related attributes. Larose describes a software protection scheme whereby additional functionality is released to the user when the user has paid for a license to use the additional functionality. *See* Larose, Paragraphs 53-55. A software developer develops different versions of a software product (e.g., a demo version and a

full version) on a development PC 200, and downloads the software containing all versions to an execution PC 250. Larose, Paragraph 66. The executable files are installed and executed *locally* on the execution PC 250. Paragraphs 61 & 84. Nothing in Larose suggests that portions of the software can be conducted at the development PC 200.

Appellant's May 15, 2008, Response explained that Larose's software protection scheme required all versions of the executable/graphics files to be installed and executed *locally* on the execution PC 250. In the claimed invention, the decision as to how to configure a local device or a remote server to conduct a basic or an enhanced version is based on *where* the game software is executed (e.g., locally at the gaming machine or at the computing device, or executed remotely at the central server system, or executed locally and remotely). By contrast, Larose's scheme unlocks software functionality based upon whether the user has paid for an appropriate license to gain access to additional functionality. The additional functionality in the software is not based upon *where* that software is executed (in Larose, it is always executed on the execution PC 250).

Accordingly, the Harkham-Karmarkar-Larose combination does not disclose configuring the gaming machine, computing device, or central server system to conduct the basic or enhanced version of the wagering game based on where the game software is executed (locally at the gaming machine or at the computing device, remotely at the central server system, or executed locally and remotely).

Similarly, regarding **claim 24**, Larose does not disclose or suggest wherein at least one of the wagering games includes a basic version that is conducted over the reconfigurable computer network at the central server system. The software program disclosed in Larose is executed *locally* on the execution PC.

Regarding **claims 25 and 26**, which recites wherein the conducting the first of the wagering games via a player-operated gaming machine includes playing the basic version over the computer network using JavaScript or other language and wherein the conducting the second of the wagering games via the player-operated computing device includes playing the basic version using JavaScript or other language, Larose discloses executing the game program *locally* on the execution PC, not over a computer network.

For at least the additional foregoing reasons, the dependent claims set forth above are believed to be patentable over the applied references.

#### **VIII. CLAIMS APPENDIX**

A clean copy of the claims 1-3, 6-15, 19, 21-35, 039-46, 48-51, 62-64 and 66-86 involved in the appeal is included in the attached Appendix of Claims on Appeal.

#### **IX. EVIDENCE APPENDIX**

As there is no evidence relied upon by the appellant pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, no information is provided in the attached Evidence Appendix.

#### **X. RELATED PROCEEDINGS APPENDIX**

As there are no related proceedings, no information is provided in the Related Proceedings Appendix.

#### **CONCLUSION**



For at least the foregoing reasons, the final rejection of appealed claims 1-3, 6-15, 19, 21-35,039-46, 48-51, 62-64 and 66-86 set forth in the Final Office Action mailed April 21, 2009, should be reversed.

For the reasons set forth above, Appellant respectfully submits that the Office Action does not present a *prima facie* case of obviousness under 35 U.S.C. § 103. Based upon the arguments submitted supra, Appellant respectfully solicits the Honorable Board to reverse the Examiner's 35 U.S.C. § 103 final rejection of appealed claims 1-3, 6-15, 19, 21-35,039-46, 48-51, 62-64 and 66-86.

The Commissioner is hereby authorized to charge deposit account No. 50-4181 (Attorney Docket No. 247079-000125USPT for the fee of \$540.00 required by 37 C.F.R. §41.20(b)(2) and for any additional fees inadvertently omitted. It is believed that no additional fees are presently due in connection with this submission of the Appeal Brief. However, to the extent that any fees may now be required, the Commissioner is hereby authorized to charge deposit account No. 50-4181 (Attorney Docket No. 247079-000125USPT) for any fees owing in connection with this submission of the Appeal Brief, except for the issue fee.

Respectfully submitted,

Date: September 23, 2009

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## **APPENDIX OF CLAIMS ON APPEAL**

### **CLEAN COPY OF CLAIMS ON APPEAL**

1. (Previously Presented) A method of integrating casino gaming with non-casino interactive gaming at a central server system, comprising:

offering a plurality of wagering games on the central server system, the plurality of wagering games each including audiovisual content and game software for generating a random event, the audiovisual content including computer-generated image and animation data representing the random event;

establishing a communications link between the central server system and a player-operated gaming machine in a land-based casino;

conducting a first of the wagering games via the player-operated gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the gaming machine;

establishing, via a reconfigurable computer network, a communications link between the central server system and a player-operated computing device remote from any land-based casino;

authorizing the computing device to access the first or a second of the wagering games offered on the central server system;

conducting the second of the wagering games via the player-operated computing device by generating a random event for the second of the wagering games at the central server system;

wherein the audiovisual content for the second of the wagering games is presented at the computing device; and

providing, at the gaming machine, an award for a winning outcome of the random event for the first of the wagering games.

2. (Original) The method of claim 1, wherein the wagering game is selected from a group consisting of slots, poker, bingo, keno, and blackjack.

3. (Original) The method of claim 1, wherein the computer network includes an intranet.

4-5. (Canceled)

6. (Previously Presented) The method of claim 1, further including downloading the audiovisual content for the second of the wagering games from the central server system to the gaming machine, and wherein the conducting the second of the wagering games includes executing the game software at the central server system, and wherein the configuring includes configuring the gaming machine to conduct the basic version of the at least one of the wagering games, wherein the at least one of the wagering games is the second of the wagering games.

7. (Previously Presented) The method of claim 1, further including downloading the audiovisual content and the game software for the first of the wagering games from the central server system to the gaming machine, wherein the conducting the first of the wagering games includes displaying the audiovisual content and executing at least a substantial

portion of the game software at the gaming machine, and wherein the configuring includes configuring the gaming machine to conduct the enhanced version of the at least one of the wagering games, wherein the at least one of the wagering games is the first of the wagering games.

8. (Previously Presented) The method of claim 1, wherein the offering includes offering a web site operated by the central server system.

9. (Previously Presented) The method of claim 1, wherein the gaming machine is free of a game engine for executing the game software.

10. (Previously Presented) A method of integrating casino gaming with non-casino interactive gaming, comprising:

offering a plurality of wagering games on a central server system, the plurality of wagering games each including audiovisual content and game software for generating a random event, the audiovisual content including computer-generated image and animation data representing the random event;

providing a player-operated gaming machine in a land-based casino and linked to the central server system;

conducting a first of the wagering games via the player-operated gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the gaming machine;

providing, at the gaming machine, an award for a winning outcome of the random event for the first of the wagering games;

providing a player-operated computing device remote from any land-based casino and linked to the central server system by a reconfigurable computer network;

authorizing the computing device to access a second of the wagering games offered on the central server system;

conducting the second of the wagering games via the player-operated computing device, wherein the random event for the second of the wagering games is generated at the central server system and wherein the audiovisual content for the second of the wagering games is presented at the computing device.

11. (Previously Presented) The method of claim 10, wherein the conducting the first wagering game includes receiving a wager from a player, automatically generating the random event, and wherein the conducting the second wagering game includes receiving a wager from a player and providing an award to the player for a winning outcome of the random event for the second wagering game.

12. (Original) The method of claim 10, wherein the plurality of wagering games are selected from a group consisting of slots, poker, bingo, keno, and blackjack.

13. (Original) The method of claim 10, wherein the computer network includes an intranet.

14. (Original) The method of claim 13, wherein the computing device is linked to the central server system by the Internet.

15. (Original) The method of claim 14, further including enabling the computing device to be linked to the central server system by the Internet using a security key.

16-18. (Canceled)

19. (Previously Presented) The method of claim 10, further including downloading the audiovisual content and the game software for the first wagering game from the central server system to the gaming machine, and wherein the conducting the first one of the wagering games via a player-operated gaming machine includes displaying the audiovisual content for the first wagering game and executing the game software for the first wagering game at the gaming machine.

20. (Canceled)

21. (Previously Presented) The method of claim 10, further including downloading the audiovisual content for the second wagering game from the central server system to the computing device, and wherein the conducting the second of the wagering games via the player-operated computing device includes displaying the audiovisual content for the second wagering game at the computing device and executing the game software for the second wagering game at the central server system.

22. (Previously Presented) The method of claim 10, wherein the offering the plurality of wagering games on the central server system includes posting the wagering games on a web site operated by the central server system.

23. (Previously Presented) The method of claim 10, wherein the gaming machine is free of a game engine for executing the game software such that the game software for the first wagering game is executed by the central server system.

24. (Previously Presented) The method of claim 10, wherein at least one of the wagering games includes a basic version that is conducted over the reconfigurable computer network at the central server system.

25. (Previously Presented) The method of claim 24, wherein the conducting the first of the wagering games via a player-operated gaming machine includes playing the basic version over the computer network using JavaScript or other language.

26. (Previously Presented) The method of claim 24, wherein the conducting the second of the wagering games via the player-operated computing device includes playing the basic version using JavaScript or other language.

27. (Previously Presented) The method of claim 24, wherein at least one of the wagering games includes an enhanced version having upgraded audiovisual content relative to the basic version.

28. (Previously Presented) The method of claim 27, further including downloading the upgraded audiovisual content of the enhanced version from the central server system to the computing device and storing the upgraded audiovisual content locally on the computing device.

29. (Original) The method of claim 27, further including downloading the upgraded audiovisual content from the central server system to the gaming machine and storing the audiovisual content locally on the gaming machine.

30. (Original) The method of claim 10, wherein at least one of the wagering games includes a basic version and an enhanced version, the enhanced version having upgraded audiovisual content relative to the basic version, wherein when the basic version is conducted via one of the computing device and the gaming machine, the basic version is played using JavaScript or other language, and wherein when the enhanced version is conducted via one of the computing device and the gaming machine, the upgraded audiovisual content is downloaded to and stored locally on the one of the computing device and the gaming machine.

31. (Previously Presented) A central server system for integrating casino gaming with non-casino interactive gaming, comprising:



a plurality of wagering games offered by the central server system, each of the plurality of wagering games including audiovisual content and game software for generating a random event, the audiovisual content including computer-generated image and animation data representing the random event; and

a controller programmed to:

establish a communication link between the central server system and a player-operated gaming machine located in a land-based casino,

conduct a first of the wagering games via the player-operated gaming machine, the audiovisual content for the first wagering game being presented at the gaming machine,

establish, via a reconfigurable computer network, a communications link between the central server system and a player-operated computing device remote from any land-based casino,

authorize the computing device to access a second of the wagering games offered on the central server system,

cause an award for a winning outcome of the random event for the first of the wagering games to be provided at the gaming machine, and

conduct the second of the wagering games via the player-operated computing device by generating the random event of the second wagering game at the central server system, the audiovisual content for the second wagering game being presented at the computing device.

32. (Original) The system of claim 31, wherein the plurality of wagering games are selected from a group consisting of slots, poker, bingo, keno, and blackjack.

33. (Original) The system of claim 31, wherein the computer network includes an intranet.

34. (Previously Presented) The system of claim 33, wherein the computer network includes the Internet.

35. (Original) The system of claim 34, wherein the computing device includes a security key enabling the computing device to be linked to the central server system by the Internet.

36-38. (Canceled)

39. (Previously Presented) The system of claim 31, wherein the gaming machine receives the audiovisual content for the first wagering game and the game software for the first wagering game from the central server system, stores the audiovisual content for the first wagering game and the game software for the first wagering game locally, and executes the game software for the first wagering game.

40. (Previously Presented) The system of claim 31, wherein the central server system executes the audiovisual content for the second wagering game and the game software for the second wagering game.

41. (Previously Presented) The system of claim 31, wherein the central server system executes the game software for the second wagering game, and wherein the computing device receives the audiovisual content for the second wagering game from the central server system and stores the audiovisual content for the second wagering game locally.

42. (Previously Presented) The system of claim 31, further comprising a web site posting the plurality of wagering games and operated by the central server system.

43. (Previously Presented) The system of claim 31, wherein the gaming machine is free of a game engine for executing the game software.

44. (Original) The system of claim 31, wherein at least one of the wagering games includes a basic version.

45. (Original) The system of claim 44, wherein the computing device plays the basic version using JavaScript or other language.

46. (Previously Presented) The system of claim 44, wherein the gaming machine plays the basic version over the computer network using JavaScript or other language.

47. (Canceled)

48. (Original) The system of claim 47, wherein the computing device receives the upgraded audiovisual content from the central server system and stores the upgraded audiovisual content locally.

49. (Original) The system of claim 47, wherein the gaming machines receive the upgraded audiovisual content from the central server system and store the upgraded audiovisual content locally.

50. (Previously Presented) The system of claim 31, wherein at least one of the wagering games includes a basic version and an enhanced version having upgraded audiovisual content relative to the basic version, wherein when the gaming machine or the computing device is used to conduct the basic version, the basic version is played using JavaScript or other language, and wherein when the gaming machine or the computing device is used to conduct the enhanced version, the upgraded audiovisual content is downloaded to and stored locally on the gaming machine or on the computing device.

51. (Original) The system of claim 31, wherein the plurality of games are affiliated with a common entity.

52-61. (Canceled)

62. (Original) The method of claim 1, wherein the computer network supports TCP/IP protocols for transmission of data thereon.

63. (Original) The method of claim 10, wherein the computer network supports TCP/IP protocols for transmission of data thereon.

64. (Original) The system of claim 31, wherein the computer network supports TCP/IP protocols for transmission of data thereon.

65. (Canceled)

66. (Previously Presented) A method of integrating casino gaming with non-casino interactive gaming, comprising:

offering a plurality of wagering games on the central server system, the plurality of wagering games each including audiovisual content and game software for generating a random event, the audiovisual content including computer-generated image and animation data representing the random event;

establishing a communications link between the central server system and a plurality of player-operated gaming machines in a land-based casino;

causing a first of the wagering games to be conducted via a first of the gaming machines by generating a random event for the first wagering game at the first gaming machine, wherein the audiovisual content for the first of the wagering games is presented at the first gaming machine;

providing, at the first gaming machine, an award for a winning outcome of the random event for the first of the wagering games;

establishing, via a reconfigurable computer network, a communications link between the central server system and a player-operated computing device remote from any land-based casino;

authorizing the computing device to access a second of the wagering games offered on the central server system over the computer network; and

causing the second of the wagering games to be conducted via the player-operated computing device by generating a random event for the second of the wagering games at the central server system;

wherein the audiovisual content for the second of the wagering games is presented at the computing device.

67. (Previously Presented) The method of claim 66, further comprising downloading the game software for the first wagering game from the central server system to the first gaming machine.

68. (Previously Presented) The method of claim 66, further comprising downloading the audiovisual content for the first wagering game from the central server to the first gaming machine.

69. (Previously Presented) The method of claim 66, further comprising downloading the game software for the first wagering game from the central server system to the first gaming machine prior to the causing the first wagering game to be conducted; and

downloading the audiovisual content for the first wagering game from the central server to the first gaming machine.

70. (Previously Presented) The method of claim 66, wherein at least one of the wagering games includes a basic version that is conducted over the reconfigurable computer network at the central server system and at least another one of the wagering games includes an enhanced version having upgraded audiovisual content relative to the basic version.

71. (Previously Presented) The method of claim 70, further including downloading the upgraded audiovisual content of the enhanced version from the central server system to the computing device and storing the upgraded audiovisual content locally on the computing device.

72. (Previously Presented) The method of claim 66, wherein the plurality of gaming machines includes a second gaming machine that is free of a game engine for executing the game software, the method further comprising:

causing a third of the wagering games to be conducted via a second gaming machine, wherein the audiovisual content for the third wagering game is presented at the second gaming machine; and

executing the game software for the third wagering game at the central server system.

73. (Previously Presented) The method of claim 1, wherein the configuring includes configuring the central server system to conduct the basic version responsive to the game software being executed remotely at the central server system.

74. (Previously Presented) The method of claim 1, wherein the configuring includes configuring the gaming machine or the computing device to conduct the enhanced version responsive to the game software being executed locally.

75. (Previously Presented) The method of claim 1, wherein the player account database includes a plurality of records having multiple fields of information related to an identification of each player.

76. (Previously Presented) The method of claim 75, wherein the fields include at least one of a player's name, date of birth, social security number, address, a telephone number, or credit card information.

77. (Previously Presented) The method of claim 76, wherein the fields further include at least one of player tracking information, player preferences, or server preferences, the method further comprising configuring the central server system to configure menus of the first wagering game based on the at least one of the player tracking information, the player preferences, or the server preferences.



78. (Previously Presented) The method of claim 77, further comprising computing a bonus to be awarded to a player of the first wagering game or the second wagering game based upon the player preferences associated with the player.

79. (Previously Presented) The method of claim 10, wherein at least one of the wagering games includes a basic version and an enhanced version having upgraded audiovisual content relative to the basic version, the method further comprising configuring the gaming machine, the computing device, or the central server system to conduct the basic version or the enhanced version based on whether the game software is executed locally at the gaming machine or at the computing device, or executed remotely at the central server system, or executed locally and remotely.

80. (Previously Presented) The method of claim 10, further comprising:  
receiving a wager from a player to play the first of the wagering games or the second of the wagering games;

deducting an amount corresponding to the wager from a monetary source based on the financial account information associated with the player.

81. (Previously Presented) The system of claim 31, wherein the controller is further programmed to retrieve financial account information stored in a player account database that is remote from the gaming machine and from the computing device, wherein the player

account database is communicatively accessible by the gaming machine and by the computing device.

82. (Previously Presented) The method of claim 66, wherein at least one of the wagering games includes a basic version and an enhanced version having upgraded audiovisual content relative to the basic version, the method further comprising configuring the gaming machine, the computing device, or the central server system to conduct the basic version or the enhanced version based on whether the game software is executed locally at the gaming machine or at the computing device, or executed remotely at the central server system, or executed locally and remotely.

83. (Previously Presented) The method of claim 1, further comprising:  
storing financial account information in a player account database that is remote from the gaming machine and from the computing device, wherein the player account database is communicatively accessible by the gaming machine and by the computing device;

wherein at least one of the wagering games includes a basic version and an enhanced version having upgraded audiovisual content relative to the basic version; and

configuring the gaming machine, the computing device, or the central server system to conduct the basic version or the enhanced version as a function of whether the game software is executed locally at the gaming machine or at the computing device, or executed remotely at the central server system, or executed locally and remotely.

84. (Previously Presented) The method of claim 10, further comprising:

storing financial account information in a player account database that is remote from the gaming machine and from the computing device, wherein the player account database is communicatively accessible by the gaming machine and by the computing device.

85. (Previously Presented) The system of claim 31, wherein at least one of the wagering games includes a basic version and an enhanced version having upgraded audiovisual content relative to the basic version, and wherein the controller is further programmed to configure the central server system to conduct the basic version or the enhanced version based on whether the game software is executed locally at the gaming machine or at the computing device, or executed remotely at the central server system, or executed locally and remotely.

86. (Previously Presented) The method of claim 66, further comprising storing financial account information in a player account database that is remote from the gaming machine and from the computing device, wherein the player account database is communicatively accessible by the gaming machine and by the computing device.

## **EVIDENCE APPENDIX**

None.

## **RELATED PROCEEDINGS APPENDIX**

None. There are no related proceedings